

Duke, Daphne

From: David W. Murk <MurkD@api.org>
Sent: Friday, June 11, 2021 5:43 AM
To: PSC_Contact
Subject: [External] API Comment Letter - South Carolina PSC Docket No. 2020-247-A
Attachments: API Comments South Carolina PSC Docket No. 2020-247-A(11765989.1).pdf

Good Morning,

The attached letter is submitted in response to the SC Public Service Commissions "Notice and Request for Comments Regarding Proposed New Pipeline Regulations" dated April 23. The American Petroleum Institute appreciates the opportunity to comment on the proposed regulations.

Please let me know if you have any questions or require additional clarification on what has been submitted. Thank You!

Regards,
Dave

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Via email to: contact@psc.sc.gov

June 11, 2021

The Honorable Jocelyn Boyd
 Chief Clerk & Executive Director
 The Public Service Commission
 State of South Carolina
 101 Executive Center Drive
 Suite 100
 Columbia, South Carolina 29210-8411

RE: Docket No. 2020-247-A, Notice and Request for Comments Regarding Proposed New Pipeline Regulation

Dear Ms. Boyd:

On April 23, 2021, the South Carolina Public Service Commission (Commission) issued a Notice and Request for Comment (Notice) in the above-captioned proceeding.¹ In the Notice, the Commission asked for comments on a proposed amendment to the requirements for gas utilities in S.C. Code Ann. Regulations 103-400 *et seq.* The amendment, proposed by the Southern Environmental Law Center (SELC), would add a new regulation at S.C. Code Ann. Regs. § 103-495 for the installation or extension of gas utility pipelines in South Carolina. The American Petroleum Institute² (API) appreciates the opportunity to submit the following comments on SELC's proposal.

API opposes the proposed amendment to the Commission's regulations. Even if the Commission has the authority under South Carolina law to adopt such an amendment, SELC's proposal would impose unnecessary and far-reaching obligations on all new gas utility pipelines without regard to the type, length, or nature of the service provided. It would also severely restrict the ability of gas utilities to communicate and enter into mutually beneficial agreements with property owners and require the Commission to invest significant resources in reviewing pipelines

¹ Notice and Request for Comments (Apr. 23, 2021), <https://dms.psc.sc.gov/Attachments/Matter/20cd971a-1dcf-4ece-a8fb-ac175780c3b1>.

² API is the national trade association representing all facets of the oil and natural gas industry, which supports 10.3 million U.S. jobs and 8 percent of the U.S. economy. API's more than 625 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of more than 25 million Americans.

that are likely to have little or no impact on South Carolina citizens. There is no legitimate basis for imposing these burdens on gas utilities simply for using pipelines to serve customers in South Carolina. Accordingly, API respectfully urges the Commission to reject SELC's proposal.

I. Comments

a. Pipelines are the safest and most reliable means of transporting gas and are critical part of South Carolina's energy infrastructure.

Pipelines are the safest and most reliable means of transporting the nation's energy products. According to the latest U.S. Department of Transportation data, interstate transmission lines safely transport 99.999997% of the nation's gas and crude oil,³ and the pipeline industry generally enjoys a far better safety record than other comparable modes within the transportation sector.⁴ Gas pipelines are also a critical part of South Carolina's energy infrastructure. The U.S. Energy Information Administration reports that the use of natural gas by the electric power sector in South Carolina has more than doubled in the past ten years, and that natural gas demand within the state's industrial sector increased steadily from 2000 to 2018.⁵ The energy needs of these important sectors of the South Carolina economy cannot be safely and reliably met without pipelines.

b. The Commission's jurisdiction over gas utilities does not extend to pipelines transporting other commodities, including crude oil and refined petroleum products, or to federally regulated interstate gas transmission lines.

It is important to clarify that the Commission's jurisdiction over gas utilities does not extend to pipelines transporting other commodities, including crude oil and refined petroleum products.⁶ Nor does the Commission's jurisdiction over gas utilities extend to interstate gas pipelines that are subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act (NGA).⁷ Owners and operators of FERC-jurisdictional interstate gas transmission lines are not gas utilities under South Carolina law and, even if they were, SELC's proposal would be preempted by the comprehensive federal regulatory regime established under the NGA.⁸

c. Even if the Commission has the authority under South Carolina law to adopt such an amendment, SELC's proposal is overly broad and would apply to all

³ Are Pipelines Safe?, <https://empower.afpm.org/safety/are-pipelines-safe> (last visited June 9, 2021).

⁴ Bureau of Transportation Statistics, Injured Persons by Transportation Mode, <https://www.bts.gov/content/injured-persons-transportation-mode> (last visited June 9, 2011).

⁵ EIA, South Carolina Profile Analysis, <https://www.eia.gov/state/analysis.php?sid=SC#:~:text=Hydropower%2C%20biomass%2C%20and%20solar%20energy,state's%20net%20generation%20during%202019> (last updated Nov. 19, 2020).

⁶ Op. S.C. Att'y Gen. (July 1, 2015), <http://2hsvz0l74ah31vgcm16peuy12tz.wpengine.netdna-cdn.com/wp-content/uploads/2015/07/Aiken-County-Legislative-Delegation-OS-9924-FINAL-Opinion-7-1-2015-00685725xD2C78.pdf>.

⁷ 15 U.S.C. § 717.

⁸ *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Dominion Transmission Inc. v. Summers*, 723 F.3d 238 (D.C. Circ. 2013).

new gas utility pipelines regardless of the type, length, or nature of the service provided.

Even if the Commission has the authority under South Carolina law to adopt such an amendment, SELC's proposal is overly broad. All new pipelines, regardless of the type or length of the pipeline or the nature of the service provided by the gas utility, would be subject to the requirements in the proposed regulation. The installation or extension of a short service line providing gas to a single residential customer would be treated the same as the installation or extension of a large diameter transmission line providing gas to a distribution system for a large urban area. It is hard to imagine how a regime that treats a short service line the same as a large diameter transmission line serves the public interest, particularly given the other burdens imposed in the proposed amendment.

- d. Even if the Commission has the authority under South Carolina Law to adopt such an amendment, SELC's proposal would apply unnecessary and unduly burdensome pre-filing requirements for new gas utility pipelines.*

Even if the Commission has the authority under South Carolina law to adopt such an amendment, SELC's proposal would apply unnecessary and unduly burdensome pre-filing requirements for new gas utility pipelines. For example, gas utilities would be required to determine if the area where a proposed pipeline is to be built is or could be served by electricity. The status of electricity service in an area will not be relevant to the installation or extension of a new pipeline in many cases, *i.e.*, a pipeline might pass through an area without providing gas directly to any local customers. Moreover, even in cases where a pipeline will provide gas service directly to local customers, the Commission should not require gas utilities to make determinations about the availability of electricity service. Gas utilities may not have the expertise or information needed to make that kind of determination, and of course the customer being served by the new pipeline may be a power plant using the gas to generate electricity for South Carolina residents.

SELC's proposal would also require gas utilities to prepare an extensive study of the environmental and other impacts of any new pipeline. As part of that study, gas utilities would need to consider a laundry list of direct and indirect environmental impacts, including such nebulous concepts as "induced sprawl and development", as well as potential air pollution, greenhouse gas emissions, and methane leaks, and impacts on property and wildlife. Gas utilities would need to prepare a separate environmental justice study of the direct and indirect impacts on various individuals, groups, and places, such as "ethnic minorities, low income residents, heirs properties, farmlands, Century Farms, cemeteries, schools, places of worship and religious facilities, historic sites, day care facilities, and elderly residents and property owners[.]" Again, gas utilities would need to prepare these comprehensive studies regardless of the pipeline length, type, or service provided.

- e. Even if the Commission has the authority under South Carolina law to adopt such an amendment, SELC's proposal would impose severe restrictions on the ability of gas utilities to communicate and enter into mutually beneficial agreements with property owners.*

Even if the Commission has the authority under South Carolina law to adopt such an amendment, SELC's proposal would impose severe restrictions on the ability of gas utilities to communicate and enter into mutually beneficial agreements with property owners in South Carolina. Any communications concerning the acquisition of property or easements for pipelines would be prohibited during a blackout period, except for certain written materials that gas utilities would be required to send to property owners. No justification is offered for these sweeping restrictions, which would significantly interfere with the rights of gas utilities and property owners in South Carolina.


f. Even if the Commission has the authority under South Carolina law to adopt such an amendment, SELC's proposal would require the Commission to invest significant resources in reviewing pipelines that will have little or no impact.

Even if the Commission has the authority under South Carolina law to adopt such an amendment, SELC's proposal would require the Commission to hold a field hearing in or near the area where a new pipeline would be built, again without regard to type, length, or nature of the service provided. While a field hearing may be appropriate in certain cases, *e.g.*, for significant pipeline projects that exceed a particular mileage or monetary threshold, there is no need for the Commission to hold a field hearing for every new pipeline. Many projects will involve the installation or extension of short pipelines that have little or no impact on the environment, property, or surrounding community. The Commission should not be required to dedicate scarce state resources to convening field hearings for these types of insignificant pipeline projects.

II. Conclusion

API appreciates the opportunity to submit comments in response to the Notice. If you have any questions, please feel free to contact me at the information provided below.

Sincerely,



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